

## THE CURRENT ISO 20-10 ENDORSEMENT FORM

Intending to reduce the breadth of the 20-10 endorsement form, in 1993, the Insurance Services Office (the "ISO") significantly changed the 20-10 additional insured endorsement form. Then in 1997, a version similar to 1993 form was adopted, which is called the ISO No. 20-10-03-97. This endorsement form reads:

**WHO IS AN INSURED is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of your ongoing operations performed for that insured.**

The big change from the 1985 version of the 20-10 form to the 1993 and 1997 versions is the substitution of the words "your ongoing operations" in place of "your work." The sole reason for the change was to clarify the intent from the perspective of the ISO not to insure additional insureds for bodily injury or property damage after the named insured's work is completed. This distinction is significant mainly in the realm of construction defect litigation.

Additional insured endorsement forms that include the language "ongoing operations" have generally been interpreted to be limited to claims that arise at the time the subcontractor or supplier actually performs work at the builder's jobsite.

The ISO's intent in making these changes was to restrict the breadth of both the 1993 and 1997 20-10 endorsement forms. Nevertheless, the courts have gone out of their way to broadly construe both of these endorsement forms since they were adopted. Therefore, in 2001, the ISO modified the 20-10 form once again. This endorsement form was titled ISO 20-10-10-01. This form added to the 1993 and 1997 versions by very clearly specifying that the additional insured would not be covered for claims that arose after the named insured's operations had been completed.

Despite these changes, builders and contractors, and their risk managers, did not give up easily the goal of obtaining from their subcontractors and suppliers a broad additional insured endorsement. Once the 20-10-10-01 form was adopted by the ISO, builders began specifying that their subcontractors and suppliers provide an additional endorsement form to the 20-10-10-01 form. They requested the ISO 20-37-10-01 form, along with the 20-10-10-01 form. Builders viewed the combination of these forms as providing coverage similar to the 20-10-11-85 form. In particular, the 20-37-10-01 form reads:

**WHO IS AN INSURED is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of "your work" at the location designated and described in the schedule of this endorsement performed for that insured and included in the "products-completed operations hazard."**

Keeping with its intent to make the 20-10 form narrow in scope, the ISO yet again changed the form in July, 2004. This latest form is the 20-10-07-04 form, intended to be narrower than the 2001 form by stating that for the additional insured to be protected that injury or damage must be caused by the named insured's ongoing operations. Additionally, it states that injury or damage must be caused by acts or omissions of the named insured's in the performance of its operations.

While it is too early to know how the courts will interpret the most recent 20-10, our guess is that it will be narrowly interpreted.

How will builders and general contractors respond to the narrow 20-10 form? Our guess is that builders and contractors will continue to ask for the outdated 20-10-11-85 form or its equivalent. Even though the 20-10 form has been updated many times since 1985, some insurance carriers continue to make it or something similar available to their insureds.